



STATE OF NEW JERSEY

In the Matters of Jaime Martorano,
et. al., Bergen County Sheriff

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket Nos. 2022-428, *et. al.*

Classification Appeals

ISSUED: OCTOBER 12, 2021 (JET)

Bergen County, represented by Daniel E. Zwillenberg, Esq., appeals the decision of the Division of Agency Services (Agency Services) that the proper classification of the positions of Jaime Martorano, Brenda Nin, and Jason Yard with the Bergen County Sheriff is Investigator, Secured Facilities.

As background, the above noted individuals were initially assigned to the Bergen County Police Department as County Correctional Police Officers. In 2015, the appointing authority eliminated the Bergen County Police Department and realigned its functions with the Bergen County Sheriff's Office. For a full explanation of the circumstances involving the realignment of the Bergen County Police Department's functions to the Bergen County Sheriff's Office, see *In the Matter of County Police Officers, Bergen County Sheriff's Office* (CSC, decided June 17, 2017).¹ At some point in 2017 or 2018, in order to preserve the positions in the Bergen County Police Department, the Police Benevolent Association (PBA) Local 49 requested this agency to conduct classification reviews on behalf of several employees.² Specifically, the PBA alleged in the initial classification reevaluation requests that they were performing duties outside of their permanent titles of County Correctional Police

¹ The circumstances pertinent to the reorganization of the County Police Department to the Sheriff's Office as presented in the above noted prior decision are incorporated herein by way of reference.

² In a prior decision, the PBA alleged that the appointing authority was utilizing the titles of County Correctional Police Officer, Sheriff's Officer, and County Police Officer interchangeably, and as such, Agency Services received several requests for classification reviews, including Martorano, Nin, and Yard. In that matter, the Commission did not decide the allegations pertaining to the misclassification of the County Correctional Police Officers, as it was beyond the scope of the issues presented in that matter.

Officer while serving in the appointing authority's Office of Internal Affairs (IA) unit, Bergen County Sheriff's Office. The requests were held in abeyance due to ongoing appeals and litigation pertaining to the elimination of the Bergen County Police Department. By way of a September 15, 2020 settlement agreement that was acknowledged by this agency, Martorano, Nin and Yard were reassigned to the Sheriff's Office effective November 27, 2020, and the PBA agreed that it would no longer provide representation to the affected employees. *See In the Matter of Bergen County Sheriff and County Police Officer Title Series (CSC, decided October 21, 2020).* In that prior decision, the Civil Service Commission (Commission) ordered that it was appropriate for Agency Services to proceed with the classification reviews that were held in abeyance, and the employees or the appointing authority could appeal such determinations pursuant to *N.J.A.C. 4A:3-3.9(e)* if they disagreed with the results. Due to the time that elapsed, Agency Services requested new Position Classification Questionnaires (PCQs) to be individually submitted by the employees, which were received on February 26, 2021.

The record in the present matter establishes that at the time the employees filed for a classification review, they were serving as County Correctional Police Officers.³ The employees' positions are located in the Bergen County Sheriff's Office, they do not perform supervisory duties, and they report to Steve Ruiz, a Sheriff's Officer Sergeant. They sought a reclassification contending that they were performing duties in the IA unit, which were outside of the duties performed in their permanent title of County Correctional Police Officer. In support of their requests, the employees submitted PCQs detailing the different duties that they performed. Based on a review of all documentation supplied, Agency Services concluded on August 2, 2021, that the appropriate classification of the positions are Investigator, Secured Facilities,⁴ with an effective date of September 2, 2021.⁵

On appeal to the Commission, the appointing authority asserts that the PBA initially submitted the classification requests to this agency at the time the appellants were "temporarily" assigned to the IA unit,⁶ and the PBA later discontinued such representation as a result of the September 2020 settlement

³ The employees indicated in the February 26, 2021, PCQs that their working title was "Detective," which is not a Civil Service title.

⁴ The August 2, 2021, classification determination indicated that the reclassification to Investigator, Secured Facilities is a promotional movement.

⁵ The August 2, 2021, classification determination indicated that, pursuant to *N.J.A.C. 4A:3-3.5(c)1*, that within 30 days of receipt of the classification determination, the appointing authority shall either effect the required change in the classification of an employee's position; assign duties and responsibilities commensurate with the employee's current title; or reassign the employee to the duties and responsibilities to which the employee has permanent rights. Any change in the classification of a permanent employee's position, whether promotional, demotional or lateral, shall be effected in accordance with the applicable rules.

⁶ The appointing authority does not indicate on appeal when such temporary assignments were scheduled to end, or when it planned to reassign the employees to perform work consistent with their underlying permanent titles of County Correctional Police Officer.

agreement. The appointing authority argues that, at the time the PBA ceased to represent the employees, this agency should have discontinued the classification review.⁷

Additionally, the appointing authority asserts that the August 2, 2021 classification determination is flawed, as it incorrectly concluded that County Correctional Police Officers, including the employees, cannot be assigned to perform duties in the IA unit. The appointing authority states that the job specifications for County Correctional Police Officer do not specifically indicate that IA work cannot be performed by incumbents in that title, and as such, it maintains that it is proper for County Correctional Police Officers to perform duties in the IA unit. The appointing authority maintains that, although the duties performed in the IA unit may be performed by incumbents in the title of Investigator, Secured Facilities, such duties may also be performed by County Correctional Police Officers. The appointing authority states that the mere fact that duties listed in the job specification for the Investigator, Secured Facilities provides that such duties are performed by incumbents in that title, such information does not mean that those duties cannot fall within the scope of those performed by a County Correctional Police Officer.⁸

The appointing authority asserts that, at the time of the classification review, it explained to Agency Services that the Bergen County Sheriff's Office is a law enforcement agency which is subject to the Attorney General's Internal Affairs Policies and Procedures (IAPP). It adds that the IAPP establishes the operational standards for the IA unit, and the IAPP in conjunction with the Office of Professional Standards (OPS) provide guidelines for Sheriff's Officers and County Correctional Police Officers employed in the Bergen County Sheriff's Office.⁹ The appointing authority explains that, since County Correctional Police Officer assignments to the IA unit are temporary, their entire careers are not served in the in the IA unit, and

⁷ The September 2020 settlement agreement does not specifically indicate that the employees agreed to withdraw their classification requests, nor does it address the concerns that they were performing out-of-title work.

⁸ The appointing authority states that there are multiple Civil Service titles that have similar duties, including County Correctional Police Officer, Police Officer, and Sheriff's Officer, and the job specifications for those titles do not specifically indicate that the titles cannot be assigned to the IA unit. The appointing authority asserts that the Intergovernmental Transfer rules, pursuant to *N.J.A.C. 4A:4-7.1A*, provide that where the title to which the employee is transferring is different from that held on a permanent basis in the sending jurisdiction, or from that held on a permanent basis prior to the effective date of the separation from service due to a layoff, as the case may be, the receiving jurisdiction shall request that the Chairperson or designee approve the title, based on the following criteria: (1) the titles shall have substantially similar duties and responsibilities. It is noted that these rules have no bearing in this matter.

⁹ The appointing authority notes that the Bergen County Sheriff's Office is staffed by Sheriff's Officers and County Correctional Police Officers in various ranks.

it eventually reassigns such employees to their permanent units.¹⁰ The appointing authority adds that the IAPP requires the IA unit to be staffed with law enforcement personnel for a limited time, and it requests law enforcement supervisors to encourage officers to complete an assignment in the IA unit prior to a promotion.¹¹ As such, the appointing authority states that the IAPP's recommendations cannot be properly implemented if the County Correctional Police Officers are not permitted to serve in the IA unit.

With respect to the duties performed in the IA unit, the appointing authority maintains that it is appropriate for County Correctional Police Officers to conduct investigations pertaining to officer misconduct while serving in the IA unit. In support of its arguments, the appointing authority states that the Commission has previously acknowledged that a task not specifically addressed in a job specification may be considered acceptable related work provided that there is a nexus between the disputed task and the primary focus of the job specification. *See In the Matter of Wilson Santiago* (Commissioner of Personnel, decided December 8, 1999). The appointing authority maintains that, since it has successfully implemented the IA unit for many years, it is now unnecessary to utilize the Investigator, Secured Facilities title.¹²

The appointing authority argues that implementation of the Investigator, Secured Facilities title would be detrimental in that jurisdiction,¹³ as doing so would cause operational inefficiency and the inconsistent imposition of disciplinary action on employees.¹⁴ The appointing authority maintains that the implementation of the Investigator, Secured Facilities title may hinder its ability to recruit and appoint County Correctional Police Officers, as such individuals may not be interested in applying and serving in the Investigator, Secured Facilities title. The appointing authority also asserts that, based on the language in the August 2, 2021 classification determination, it appears that Sheriff's Officers cannot supervise employees in the Investigator, Secured Facilities title. As such, the appointing authority explains that

¹⁰ The appointing authority notes that County Correctional Police Officers learn investigative skills while serving in the IA unit, and they continue to utilize those skills at the time they return to their underlying permanent assignments.

¹¹ The appointing authority acknowledges that the IAPP does not require law enforcement personnel to complete an assignment in the IA unit, and such guidelines only contemplate a temporary assignment.

¹² The appointing authority maintains that incumbents in various law enforcement titles, including County Correctional Police Officer, have previously been assigned to the IA unit without objection and it has continuously operated the IA unit efficiently for many years.

¹³ The appointing authority states that, to its knowledge, it appears that the Department of Corrections, Essex County and Monmouth County are the only agencies that utilize the Investigator, Secured Facilities title. The appointing authority acknowledges that Essex County does not operate an IA unit located in the jail in that jurisdiction. The appointing authority explains that IA units in other jurisdictions are staffed with County Correctional Police Officers or Sheriff's Officers.

¹⁴ The appointing authority also contends that implementation of the Investigator, Secured Facilities title would require it to implement two separate IA units.

it would experience additional financial difficulties, as it be eventually required to appoint supervisors to oversee the employees in the Investigator, Secured Facilities title. Moreover, the appointing authority asserts that the Investigator, Secured Facilities title is represented by its own bargaining unit, which would require it to negotiate a new bargaining agreement for that title series. The appointing authority states that it has been implementing the IA unit for a long time without previously having a need to engage in such employment practices.¹⁵ The appointing authority adds that implementation of the Investigator, Secured Facilities title would result in it experiencing irreparable harm, as simply removing employees from the IA unit would cause it to be unable to comply with its obligations under the IAPP and other State accreditation requirements with respect to the IA unit. Moreover, the appointing authority contends that, since the PBA no longer represents the employees, and since there are no employees currently serving in the title, there would be no injury to the parties if it does not implement the Investigator, Secured Facilities title. Moreover, the appointing authority asserts that the public interest would be impaired if the IA unit does not continue to efficiently operate. The appointing authority asserts that, although it considers the employees to be serving in “temporary” assignments, it requests to continue such assignments in order to maintain the status quo in the IA unit, as consistent with its practices for several years.¹⁶

Moreover, the appointing authority requests a stay pursuant to *N.J.A.C. 4A:2-1.2(c)*. The appointing authority states that it does not anticipate the ability to implement the Investigator, Secured Facilities title series in less than a year, and as such, it requests a one-year extension of time to implement the title in order to comply with the August 2, 2021 classification determination and establish a new IA unit. Moreover, the appointing authority requests to continue to staff the IA unit with County Correctional Police Officers until the situation is resolved, since it expects to implement the related titles in the Investigator, Secured Facilities title series, including Senior Investigator, Parole and Secured Facilities, Principal Investigator, Parole and Secured Facilities, and must negotiate terms and conditions of employment and employee compensation.

¹⁵ The appointing authority also notes that such a situation would result in it removing officers from the IA unit, issuing a promotional test, appointing to the title and to supervisory titles for which it has no established salary ranges, and commencing negotiations with a new bargaining unit, thus making a previous temporary assignment now a permanent career path.

¹⁶ The length of time the appointing authority has been operating its IA unit while utilizing titles other than the Investigator, Secured Facility title is unclear in this matter, however, the appointing authority maintains that such practice has occurred for “many” years. As noted above, the appointing authority does not provide any substantive information in this matter to establish when it would reassign duties that are consistent with the employees’ permanent titles of County Correctional Police Officer.

CONCLUSION

The definition section of the job specification for County Correctional Police Officer states:

Under supervision during an assigned tour of duty within an adult county correctional facility or institution, performs a wide variety of tasks in support of the safety, security and welfare of inmates, facility personnel and visitors; performs other related duties as required.

The definition section of the job specification for Investigator, Secured Facilities states:

Under direction of a supervisory official responsible for the internal affairs investigations for a State adult correctional or juvenile treatment facility, or county correctional facility, performs the field and office work involved in the investigation of alleged criminal activities and disciplinary charges at the institution and satellite units; does other related duties.

Initially, with respect to the appointing authority's arguments that the employees' classification requests should have been dismissed as they were no longer represented by the PBA, such arguments are of no moment. *N.J.A.C.* 4A:3-3.4 provides that no person shall be appointed or employed under a title not appropriate to the duties to be performed nor assigned to perform duties other than those properly pertaining to the assigned title which the employee holds. It is this agency's responsibility to conduct classification reviews in order to determine if positions are properly classified in accordance with the job specifications for the title in question. Contrary to the appointing authority's claims, the fact that the employees are no longer represented by the PBA is of no consequence. Such information does not prevent them from filing classification reviews or infringe upon this agency's ability to conduct a classification review. Additionally, the September 15, 2020 settlement agreement does not indicate any language that excludes the employees from pursuing classification appeals with this agency. Moreover, there is no provision in Civil Service law or rules which allows an appointing authority to refuse to allow this agency to take the necessary steps to administer a classification evaluation review. In this regard, the Commission acknowledges settlement agreements allow for the resolution of matters properly before it, and it also reviews settlement agreements to ensure compliance with Civil Service law and rules. If a term of the agreement is later violated by either party, the Commission has jurisdiction to enforce the term. *See e.g., In the Matter of Donald Hickerson* (MSB, decided, September 10, 2002). *See also, In the Matter of Police Officer and Superior Officer, Essex County (1991 Layoffs)*, Docket No. A-5755-94T5 (App. Div. April 22, 1996). In this matter, the Commission

finds that the settlement agreement was properly entered into by the parties, and there is nothing in the record which suggests that the parties have not acted in good faith or in non-compliance.

Additionally, as noted above, the Commission acknowledged in a prior decision that that the PBA had initially filed classification requests on behalf of the employees, and while they could not be reviewed at that time, it ordered those matters to be held in abeyance until pending matters involving the appointing authority's reorganization were resolved, and that the employees would be able to pursue their classification requests after those matters were settled. *See In the Matter of County Police Officers, Bergen County Sheriff's Office, supra.* In this matter, it is clear that a position classification review was necessary in order to determine whether the employees' positions should be reclassified. Accordingly, the employees February 2021 classification requests were properly reviewed in accordance with Civil Service rules and law. Moreover, Agency Services correctly requested the employees to individually submit new classification evaluation requests, and it properly conducted classification evaluations and issued the August 2021 classification determination in response to their concerns.

In the instant matter, Agency Services properly determined that the appropriate classification of the employees' positions are Investigator, Secured Facilities. The August 2, 2021 classification determination indicated that the majority of the employees' duties (over 50%) constituted gathering pertinent evidence regarding allegation made against officers or civilians; reviewing and analyzing all evidence and information obtained; interviewing witnesses and obtaining a written or recorded statement; notifying the Bergen County Prosecutor's Office if allegations involved criminal activity; preparing detailed investigation reports; issuing final dispositions for each allegations; and uploading pertinent information regarding an investigation into the Infoshare program. In addition, the employees' supervisors indicated in the PCQs that their most important duties includes the ability to recognize and detect sworn/civilian staff misconduct, having a strong working knowledge of the duties and responsibilities of a Correction Officer, and being able to conduct an impartial investigation against sworn/civilian staff. The incumbent should have strong report writing skills and be able to effectively communicate with inmates/detainees, the public, and supervisors. Moreover, the appointing authority agreed in the PCQs that the employees were performing such duties, which are not consistent with those performed by a County Correctional Police Officer, at least on a full time, recurring basis. The Commission finds that such duties are consistent with the duties performed by an Investigator, Secured Facilities.

As noted in the August 2, 2021 classification determination, the duties performed by a County Correctional Police Officer include maintaining the care, custody and control of inmates according to established rules, regulations, and procedures; observing inmates through visual, audio, and video monitoring; checking

for unusual activity; ensuring the safety and welfare of inmates and the public; patrolling and inspecting cell block areas, grounds, and corridors to check for security hazards such as fires or locks that are broken or have been tampered with; physically retraining inmates when necessary to prevent injuries; maintaining security; directing inmates in routine housekeeping duties within cell blocks; escorting groups of inmates during their movements within or outside the institution; and performing related duties. Moreover, the appointing authority did not provide any substantive information in this matter to refute the August 2, 2021 classification determination, which determined that the employees were performing out-of-title work while serving in the IA unit as County Correctional Police Officers. Moreover, the duties listed in the employees' PCQs are not consistent with the definition section in the job specification for County Correctional Police Officer.

With respect to the appointing authority's arguments that the job specification for the County Correctional Police Officer title does not specifically exclude incumbents in the title from working in the IA unit, such arguments are not persuasive. A disputed task not specifically addressed in this agency's job specification may be considered acceptable related work based on nature and frequency so long as there is a nexus between the disputed task and the primary focus of the job specification. *See In the Matter of Mary Ann Unger, Department of Labor*, (Commissioner of Personnel, decided October 1, 1991) (infrequent desk-top publishing duties for report preparation appropriate for Labor Market Analyst 2); *In the Matter of Robert Maulano, Department of Military and Veterans Affairs*, (Commissioner of Personnel, decided February 3, 1992) (transport of postage meter used by Veterans Service Officer to Post Office for periodic servicing not out-of-title work for Veterans Service Officer); *In the Matter of Joseph Omlar, et al., Department of Human Services*, (Commissioner of Personnel, decided March 10, 1995) (supervision of inmate work details not out-of-title for Senior Repairers); and *In the Matter of Jane Pedrick, Department of Corrections*, (Commissioner of Personnel, decided September 12, 1996) (once a month delivery of mail in conjunction with pay check delivery not out-of-title work for Personnel Aide 1); *In the Matter of Wilson Santiago, supra* (supervision of repair and maintenance of recreation equipment and facilities appropriate for Supervisor of Recreation). Conversely, when a disputed task bears no relationship to the primary duties of the position, such task is inappropriately assigned. *See In the Matter of Joseph Provenzano, Bayside State Prison, Department of Corrections* (Commissioner of Personnel, decided June 10, 1992) (driving tractor trailer inappropriate for Head Farmer). *Wilson Santiago, supra*. (serving as liaison to the Latin Inmate Committee constitutes out-of-title work); *In the Matter of James Galea, et. al., County Correction Officer, Atlantic County (CSC, decided September 3, 2014)* (security related duties and inmate contact constitute the primary focus of duties performed by County Correctional Police Officers). In this case, the primary and majority of the employees' duties were clearly appropriate for the Investigator, Secured Facilities title. Conversely, full-time duties in those areas are clearly out-of-title for a County Correctional Police Officer.

Moreover, this agency has previously addressed classification issues pertaining to the Investigator, Secured Facilities title.¹⁷ See *In the Matter of Investigator, Penal Institution, Essex County* (MSB, decided February 2003). Specifically, that decision provided that the disputed IA tasks not specifically addressed in a job specification for the County Correction Officer¹⁸ title series are not acceptable related work, regardless of the nature and frequency of the work performed, because there is no nexus between the disputed task and the primary focus of the job specification. Further, it was determined that the disputed IA tasks bore no relationship to the primary duties of a Correction Officer. The decision found that the primary focus of the County Correctional Officer title series included guarding inmates and serving court imposed sentences for the commission of criminal offenses. It also indicated that, because the duties related to investigations bore no relationship to the primary duties of the County Correction Officer title series, such duties are classified under a separate title series, namely, Investigator, Penal Institution. Additionally, it established that the Investigator, Penal Institution title represents a promotional opportunity for County Correction Officers.

Similarly in this matter, the appointing authority has not presented any information to show that there is a nexus between the duties performed by a County Correctional Police Officer and those performed in the IA unit. Based on the aforementioned case and the duties described in the employees' PCQs, it is clear that the primary focus of their duties while serving in the IA unit included conducting investigations and issuing reports related to employee misconduct. In contrast, the primary focus of a County Correctional Police Officer includes guarding inmates and maintaining the safety and security of the prison system. Based on the record in this matter, the Commission is satisfied that the primary focus of the employees' duties while serving in the IA unit were not related to the security and safety of the prison and having contact with inmates as consistent with their permanent titles of County Correctional Police Officer.¹⁹

With respect to the appointing authority's arguments that the employees may be assigned to the IA unit in compliance with the IAPP guidelines, the Commission is not bound by such information. The IAPP guidelines are issued by the Attorney

¹⁷ The Investigator, Penal Institution title was subsequently retitled to the Investigator, Secured Facilities title. The titles are substantially similar for the purposes of this matter.

¹⁸ The County Correction Officer title was subsequently retitled to the County Correctional Police Officer title. The titles are substantially similar for the purposes of this matter.

¹⁹ Pertinent to this matter, the local class code for Investigator, Secured Facilities is 23, and the local class codes for County Correctional Police Officer is 12, County Correctional Police Sergeant is 18, and County Correctional Police Lieutenant is 22. As such, appointment from the County Correctional Police Officer title series to the Investigator, Secured Facilities title series represents a promotional opportunity. However, such information does not establish that the appointing authority's claims that it would be unable to recruit County Correctional Police Officers if the Investigator, Secured Facilities title is implemented in its jurisdiction.

General's Office in order to assist law enforcement agencies with the operation of the IA units. However, the Commission is not a law enforcement agency, and therefore, such guidelines do not apply to the classification reviews conducted by this agency. The Commission's authority with respect to issuing classification determinations and addressing classification appeals is based on Title 4A of the New Jersey Administrative Code and Title 11A of the New Jersey statutes. As such, the appointing authority's arguments pertaining to the IAPP guidelines are not applicable to this matter and do not change the outcome of the case.

Moreover, the Commission is not convinced that the employees' assignments in the IA unit were "temporary." Although the appointing authority argues that the IAPP contemplates assignments in the IA unit as temporary assignments, the appointing authority has provided no substantive evidence in support of its claims in this matter. The record reflects that the PBA initially filed the classification requests at some point in 2017 or 2018 and that the employees submitted new reclassification requests in February 2021. Contrary to the appointing authority's claims, since it did not at any time attempt to reassign the employees over what appears to be, at the very least, a four year period, the Commission determines that such assignments could not be considered "temporary" in nature, but rather, were permanent. Even if the assignments were temporary, the appointing authority has admitted that it essentially rotates County Correctional Police Officers to perform these duties. As such, the duties are clearly full-time and ongoing. As such, the proper classification for anyone encumbering those positions is Investigator, Secured Facilities.

With respect to the appointing authority's arguments that municipal Police Officers, County Police Officers, and Sheriff's Officers perform similar duties, and the job specifications for those titles do not specifically exclude incumbents in those titles from performing work in the IA unit, this agency has previously compared the duties of those titles in prior decisions, and it was determined that the titles were not similar. *See In the Matter of County Correction Officer, Atlantic County* (MSB, decided October 2003) (Sheriff's Officer and County Correctional Police Officer titles are not similar); *In the Matter of County Police Officers, Bergen County Sheriff's Office, supra.* (Sheriff's Officer and County Police Officer titles are not similar); *In the Matter of Investigator, Penal Institution, Essex County, supra.* (correctional guard duties are not similar to that of a Sheriff or Police Officer, but it is not beyond the scope of a Sheriff's Officer and a Police Officer to perform investigative duties as a primary focus of those titles). Regardless, such issues pertaining to the investigative functions of Sheriff's Officers and Police Officers are outside the scope of this matter, and as such, need not be addressed.

With respect to the appointing authority's arguments that the majority of jurisdictions do not utilize the Investigator, Secured Facilities title, personnel records reflect that the title is utilized by the following agencies and jurisdictions: Essex County, Hudson County, Monmouth County, Salem County, and the Department of

Corrections. Although other jurisdictions are not currently using the title, such information does not overcome that the employees' properly pursued the classification requests in this matter, or that the proper classification of their position is Investigator, Secured Facilities. In this regard, even assuming, *arguendo*, a similar situation occurs in another jurisdiction, this agency will review the classification requests submitted by those employees and issue a classification determination as consistent with Civil Service law and rules, and that jurisdiction will be provided the opportunity to remove the out-of-title duties or reclassify that employee to the recommended title.

With respect to the appointing authority's arguments that it would be required to reorganize its IA unit, hire additional personnel, finalize employee agreements, create salary schedules, and implement the title in question, deference is normally given to an agency's choice in organizing its functions, considering its expertise, so long as the selection was responsive to the purpose and function of the agency. *See In the Matter of Gloria Iachio, Docket No. A-3216-89T3* (App. Div., Jan. 10, 1992). (The appointing authority determined that the organizational needs of each of the various Bureaus necessitated the use of individual unit scopes for each of the respective Bureaus). Additionally, an appointing authority has the right to determine the organizational structure of its operation. The New Jersey Administrative Code does not mandate that local jurisdictions spend funds to make promotional appointments, and the Commission does not have any authority over fiscal decisions of local jurisdictions. As long as there are no improper reporting relationships or misclassifications, how the office is organized or how often the office is reorganized is not under the jurisdiction of the Commission or reviewable in the context of a classification appeal. *See In the Matter of David Kelso, et. al.* (CSC, decided May 2, 2018). Since the Commission does not have jurisdiction to address the appointing authority's organizational structuring in response to the August 2, 2021 classification determination, such issues do not need be addressed in this matter.

With respect to the appointing authority's request for a stay and additional time to implement the Investigator, Secured Facilities title, it has presented no substantive arguments in support of its request. As such, as the Commission has denied its request on the merits, its request for a stay is denied. With respect to the request for additional time, the record reflects that since at least 2017, the appointing authority was aware that the appellants had challenged the classifications of their titles. As such, the Commission finds that the appointing authority has had a sufficient amount of time to ponder what course it would take if the employees' classification requests were granted by this agency. As such, the appointing authority's argument that it will take one year to implement the Investigator, Secured Facilities title is without merit. Additionally, in *Kelso, supra* the Commission denied the appointing authority's request for a later effective date for employees who this agency determined were performing duties in the requested higher titles after a classification review. The Commission noted that if the

appointing authority disagreed with this agency's determination regarding its classification reviews, it had the option to remove the higher-level duties and assign these employees duties commensurate with their permanent titles. Additionally, the appointing authority's Table of Organization was used to determine improper reporting relationships, but it did not establish the classification of a position, which is determined by the duties assigned to the position. In that matter, it was determined that, if the appointing authority was not ready to reclassify positions at the time of the effective date, it should not have assigned out-of-title work.

Similarly, the appointing authority in this matter has the option of removing the higher level duties and assigning appropriate duties to the employees that are commensurate with the title of County Correctional Police Officer. As noted in the August 2, 2021 classification determination, *N.J.A.C. 4A:3-3.5(c)1* states that within 30 days of receipt of the classification determination, the appointing authority shall either effect the required change in the classification of an employee's position, assign duties and responsibilities commensurate with the employee's current title, or reassign the employee duties and responsibilities to which the employee has permanent rights.

One final matter warrants comment. The appointing authority has had 30 days to notify Agency Services of what option it will take with respect to the employees' classifications. Accordingly, upon receipt of this decision, the appointing authority is directed to immediately contact Agency Services and indicate whether it will implement and appoint the employees to the Investigator, Secured Facilities title, or if it will remove the out-of-title work and assign duties commensurate with the title of County Correctional Police Officer.

ORDER

Therefore, it is ordered that this appeal be denied. It is also ordered that the appointing authority's request for a stay be denied. Upon receipt of this decision, the appointing authority is to immediately notify Agency Services if it will appoint the employees to the Investigator, Secured Facilities title, or if it will remove the out-of-title work they are performing and reassign them appropriate duties as commensurate with their titles of County Correctional Police Officer. If it chooses the latter option, any employees assigned such duties in the future shall be appointed in the Investigator, Secured Facilities title series.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 6TH DAY OF OCTOBER, 2021

Deirdre' L. Webster Cobb

Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries Allison Chris Myers
and Director
Correspondence Division of Appeals
 & Regulatory Affairs
 Civil Service Commission
 Written Record Appeals Unit
 P.O. Box 312
 Trenton, New Jersey 08625-0312

c: Jaime Martorano, Docket No. 2022-428
 Brenda Nin, Docket No. 2022-429
 Jason Yard, Docket No. 2022-430
 Daniel E. Zwillenberg, Esq.
 Anthony Cureton
 Division of Agency Services
 Records Center